

1-1 By: Johnson S.B. No. 1212
1-2 (In the Senate - Filed February 24, 2023; March 9, 2023,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 April 12, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 0; April 12, 2023,
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Schwertner	X			
1-10	King	X			
1-11	Birdwell	X			
1-12	Campbell	X			
1-13	Creighton	X			
1-14	Johnson	X			
1-15	Kolkhorst	X			
1-16	Menéndez	X			
1-17	Middleton	X			
1-18	Nichols	X			
1-19	Zaffirini	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1212 By: King

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to the interconnection and integration of distributed
1-24 energy resources.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 31.002, Utilities Code, is amended by
1-27 adding Subdivisions (2-a) and (4-c) and amending Subdivision (10)
1-28 to read as follows:

1-29 (2-a) "Aggregated distributed energy resource" means
1-30 a group of distributed energy resources joined together to be
1-31 operated as a single distributed energy resource.

1-32 (4-c) "Distributed energy resource" means a source of
1-33 electricity connected at a voltage less than 60 kilovolts,
1-34 including electric energy storage, distributed generation,
1-35 distributed natural gas generation, or electric vehicles that
1-36 provide electricity onto the distribution system. The term does
1-37 not include a facility that provides temporary emergency electric
1-38 energy under Section 39.918.

1-39 (10) "Power generation company" means a person~~[-~~
1-40 ~~including a person who owns or operates a distributed natural gas~~
1-41 ~~generation facility,]~~ that:

1-42 (A) generates electricity that is intended to be
1-43 sold at wholesale, including the owner or operator of electric
1-44 energy storage equipment or facilities to which Subchapter E,
1-45 Chapter 35, applies;

1-46 (B) does not own a transmission or distribution
1-47 facility in this state other than an essential interconnecting
1-48 facility, a facility not dedicated to public use, or a facility
1-49 otherwise excluded from the definition of "electric utility" under
1-50 this section; and

1-51 (C) does not have a certificated service area,
1-52 although its affiliated electric utility, ~~[or]~~ transmission and
1-53 distribution utility, municipally owned utility, or electric
1-54 cooperative may have a certificated service area.

1-55 SECTION 2. Subchapter H, Chapter 39, Utilities Code, is
1-56 amended by adding Section 39.3515 to read as follows:

1-57 Sec. 39.3515. REGISTRATION OF DISTRIBUTED ENERGY
1-58 RESOURCES. (a) An owner or operator of a distributed energy
1-59 resource may provide energy or ancillary services in the wholesale
1-60 market in the ERCOT power region through generating electricity and

providing that electricity onto a distribution system only if:

(1) the owner or operator is registered with the commission as a power generation company under Section 39.351 and authorized by the independent organization certified under Section 39.151 for the ERCOT power region; or

(2) the distributed energy resource is part of an aggregated distributed energy resource and:

(A) is included in the registration of a power generation company under Section 39.351 and the independent organization certified under Section 39.151 for the ERCOT power region; and

(B) has complied with the interconnection requirements of the interconnecting transmission and distribution utility, municipally owned utility, or electric cooperative.

(b) The commission may establish simplified filing requirements to facilitate the registration of aggregated distributed energy resources. The filing requirements must require the registrant to disclose the name of the power generation company that operates the aggregated distributed energy resource.

(c) A facility described by Section 39.914 or 39.916 is not considered to be a distributed energy resource unless the facility is interconnected and operated in parallel with the distribution system, and either:

(1) electricity from the facility provides energy or ancillary services in the wholesale market in the ERCOT power region in a manner described by this section; or

(2) at the time the facility is installed, the estimated annual amount of electricity to be produced by the facility is more than the retail electric customer's estimated annual electricity consumption.

(d) The commission by rule shall:

(1) authorize the registrations described by Subsection (a); and

(2) adopt procedures for the creation of aggregated distributed energy resources.

SECTION 3. Chapter 39, Utilities Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. INTERCONNECTION OF DISTRIBUTED ENERGY RESOURCES

Sec. 39.701. METERING EQUIPMENT AND INFORMATION. An interconnecting transmission and distribution utility, municipally owned utility, or electric cooperative is not required to provide an owner or operator of a distributed energy resource access to the utility's meter equipment if access to essential metering information is made available by the utility or cooperative.

Sec. 39.702. INTEGRATION AND COST RECOVERY. (a) The commission by rule shall establish for the ERCOT power region:

(1) requirements for the dispatchability, reliability, and other characteristics of each type or classification of distributed energy resource;

(2) appropriate disclosure requirements and other customer protections for residential and small commercial customers of providers of aggregated distributed energy services;

(3) information an owner or operator of a distributed energy resource must provide to the interconnecting transmission and distribution utility, municipally owned utility, or electric cooperative to ensure the resource will not adversely affect the transmission or distribution system;

(4) interconnection guidelines that address:

(A) the determination of whether a given interconnection or combination of interconnections would exceed a transmission and distribution utility's, municipally owned utility's, or electric cooperative's system capacity in a particular location;

(B) considerations for feeder locations related to distributed energy resources;

(C) considerations of the size or capacity of a distributed energy resource;

(D) the assessment by the interconnecting transmission and distribution utility, municipally owned utility,

or electric cooperative of potential impacts to other customers in the area of the distributed energy resource; and

(E) other operating parameters necessary for the transmission and distribution utility's, municipally owned utility's, or electric cooperative's reliable operation of its transmission and distribution system;

(5) a methodology for the appropriate allocation and recovery of the transmission and distribution utility's, municipally owned utility's, or electric cooperative's costs to interconnect a distributed energy resource; and

(6) requirements for the independent organization certified under Section 39.151 for the ERCOT power region to report to the commission periodically:

(A) the categories and generation levels of distributed energy resources allowed to participate in the ERCOT wholesale market;

(B) the categories and megawatt levels of aggregated distributed energy resources allowed to participate in the ERCOT wholesale market;

(C) performance metrics for distributed energy resources allowed to participate in the ERCOT wholesale market; and

(D) other information the commission may require.

(b) The commission shall authorize a transmission and distribution utility and, as applicable, a municipally owned utility or electric cooperative, to:

(1) defer for recovery in a later ratemaking proceeding the incremental operations and maintenance expenses, or other expenses, and the return, not otherwise recovered in a rate proceeding, associated with the installation, modification, upgrade, or maintenance of its transmission or distribution facilities required by an interconnection with a distributed energy resource; and

(2) request recovery of the costs associated with an interconnection with a distributed energy resource, including any deferred expenses, through a proceeding under Section 35.004 or 36.210 or in another ratemaking proceeding regardless of whether the utility or cooperative first requested recovery in a base-rate proceeding.

(c) Facilities required by an interconnection with a distributed energy resource are considered used and useful in providing service to the public and are prudent and includable in the rate base, regardless of the extent of the actual use of the facilities.

(d) This subchapter does not:

(1) require or authorize a distribution service provider to procure distributed energy resource services to enable the operation of the distribution system;

(2) require a distribution service provider to disclose to any third party, except as required by the independent system operator, the provider's system planning information, studies, models, critical infrastructure information, or other confidential information;

(3) diminish a distribution service provider's rights or obligations to own or operate its distribution system and provide electric delivery service to retail customers in the provider's certificated service area;

(4) obligate a distribution service provider to interconnect a distributed energy resource with a capacity equal to or greater than 10 megawatts; or

(5) prohibit an interconnecting distribution service provider from shedding a distributed energy resource, or otherwise obligate an interconnecting distribution service provider to provide preferential treatment to feeders with distributed energy resources, to meet its load shedding obligations during an involuntary load shedding event initiated by the independent system operator or a planned or unplanned outage of the distribution system.

Sec. 39.703. LIABILITY. An interconnecting transmission

and distribution utility, municipally owned utility, electric cooperative, or retail electric provider providing service to a distributed energy resource to which this subchapter applies is not liable for:

(1) a violation of reliability or service metrics caused by distributed energy resource operations that violate its interconnection agreement; or

(2) a distributed energy resource's inability or failure to provide services that violate its interconnection agreement or a penalty for such inability or failure.

SECTION 4. (a) This section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes becomes law.

(b) Subchapter 2, Chapter 39, Utilities Code, is amended by adding Section 39.9166 to read as follows:

Sec. 39.9166. DISTRIBUTED ENERGY RESOURCES. (a) A customer who purchases or leases a distributed energy resource or enters into a power purchase agreement for a distributed energy resource in the ERCOT power region is entitled to the information and disclosures required under Chapter 115, Business & Commerce Code, and is entitled to protection from fraudulent, unfair, misleading, or deceptive practices.

(b) An owner or operator of a distributed energy resource may provide energy or ancillary services in the wholesale market in the ERCOT power region through generating electricity and providing that electricity onto a distribution system in an area in which customer choice has been introduced in the manner provided by this section.

(c) A person who owns or operates a distributed energy resource in an area in which customer choice has been introduced and is part of an aggregated distributed energy resource, or has not individually registered with the commission as its own power generation company, must sell the surplus electricity that is produced by the distributed energy resource and not consumed by the owner's premise to the retail electric provider that serves the premise's load at a value agreed to between the distributed energy resource owner and the retail electric provider that serves the premise's load. The value may be an agreed value based on the clearing price of energy or ancillary service at the time of day that the electricity is made available to the grid.

(d) A person who operates an aggregated distributed energy resource in an area in which customer choice has been introduced is subject to customer protection rules established by the commission under Chapter 17 and this chapter.

(e) A retail electric provider may direct the offering or dispatch of aggregated distributed energy resources for which the retail electric provider facilitated aggregation.

(f) The independent organization certified under Section 39.151 for the ERCOT power region shall adopt procedures to ensure that the amount of electricity purchased from a distributed energy resource owner under this section is accounted for when settling the total load served by the retail electric provider that serves that premise owner's load.

(g) A distributed energy resource owner that requests net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(h) A transmission and distribution utility, municipally owned utility, or electric cooperative may provide to customers educational information regarding the technical requirements for the interconnection of distributed energy resources to the distribution system. The provision of information under this subsection is not considered a competitive energy service.

(i) This section does not apply to a purchase or agreement entered into under Section 39.914 or 39.916.

SECTION 5. (a) This section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes does

not become law.

(b) Subchapter 2, Chapter 39, Utilities Code, is amended by adding Section 39.9166 to read as follows:

Sec. 39.9166. DISTRIBUTED ENERGY RESOURCES. (a) A customer who purchases or leases a distributed energy resource or enters into a power purchase agreement for a distributed energy resource in the ERCOT power region is entitled to the information and disclosures required under Chapter 113, Business & Commerce Code, as added by Chapter 561 (S.B. 398), Acts of the 87th Legislature, Regular Session, 2021, and is entitled to protection from fraudulent, unfair, misleading, or deceptive practices.

(b) An owner or operator of a distributed energy resource may provide energy or ancillary services in the wholesale market in the ERCOT power region through generating electricity and providing that electricity onto a distribution system in an area in which customer choice has been introduced in the manner provided by this section.

(c) A person who owns or operates a distributed energy resource in an area in which customer choice has been introduced and is part of an aggregated distributed energy resource, or has not individually registered with the commission as its own power generation company, must sell the surplus electricity that is produced by the distributed energy resource and not consumed by the owner's premise to the retail electric provider that serves the premise's load at a value agreed to between the distributed energy resource owner and the retail electric provider that serves the premise's load. The value may be an agreed value based on the clearing price of energy or ancillary service at the time of day that the electricity is made available to the grid.

(d) A person who operates an aggregated distributed energy resource in an area in which customer choice has been introduced is subject to customer protection rules established by the commission under Chapter 17 and this chapter.

(e) A retail electric provider may direct the offering or dispatch of aggregated distributed energy resources for which the retail electric provider facilitated aggregation.

(f) The independent organization certified under Section 39.151 for the ERCOT power region shall adopt procedures to ensure that the amount of electricity purchased from a distributed energy resource owner under this section is accounted for when settling the total load served by the retail electric provider that serves that premise owner's load.

(g) A distributed energy resource owner that requests net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(h) A transmission and distribution utility, municipally owned utility, or electric cooperative may provide to customers educational information regarding the technical requirements for the interconnection of distributed energy resources to the distribution system. The provision of information under this subsection is not considered a competitive energy service.

(i) This section does not apply to a purchase or agreement entered into under Section 39.914 or 39.916.

SECTION 6. As soon as practicable after the effective date of this Act, the Public Utility Commission of Texas shall adopt rules necessary to implement the changes in law made by this Act.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

* * * * *